

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, I understand the amendment is dealing with the Congo that is being offered by my colleague from Kansas and the Senator from Maryland. Is that correct?

Mr. BROWNBAC. The Senator from Wisconsin and the Senator from Illinois are the cosponsors on this one.

Mr. DODD. This is a good amendment and one that I believe has great value. It has been agreed to across the spectrum in the Senate. So if we can get a quick voice vote, I am prepared to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBAC], for himself, Mr. FEINGOLD, Mr. DURBIN, Mr. SPECTER, Mr. BROWN of Ohio, Mr. JOHNSON, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. BOXER, and Mr. MERKLEY, proposes an amendment numbered 3997 to amendment number 3739.

Mr. BROWNBAC. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require annual disclosure by certain persons to the Securities and Exchange Commission if columbite-tantalite, cassiterite, gold, or wolframite from the Democratic Republic of Congo are necessary to the functionality or production of a product manufactured by the person)

On page 1565, after line 23, add the following:

#### **TITLE XIII—CONGO CONFLICT MINERALS**

##### **SEC. 1301. SENSE OF CONGRESS ON EXPLOITATION AND TRADE OF COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

It is the sense of Congress that the exploitation and trade of columbite-tantalite, cassiterite, gold, and wolframite in the eastern Democratic Republic of Congo is helping to finance extreme levels of violence in the eastern Democratic Republic of Congo, particularly sexual and gender-based violence, and contributing to an emergency humanitarian situation therein, warranting the provisions of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302.

##### **SEC. 1302. DISCLOSURE TO SECURITIES AND EXCHANGE COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.**

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by section 763 of this Act, is further amended by adding at the end the following new subsection:

“(o) DISCLOSURES TO COMMISSION RELATING TO COLUMBITE-TANTALITE, CASSITERITE, GOLD, AND WOLFRAMITE ORIGINATING IN DEMOCRATIC REPUBLIC OF CONGO.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall promulgate rules requiring any person described in paragraph (2)—

“(A) to disclose annually to the Commission in a report—

“(i) whether the columbite-tantalite, cassiterite, gold, or wolframite that was nec-

essary as described in paragraph (2)(A)(ii) in the year for which such report is submitted originated or may have originated in the Democratic Republic of Congo or an adjoining country; and

“(ii) a description of the measures taken by the person, which may include an independent audit, to exercise due diligence on the source and chain of custody of such columbite-tantalite, cassiterite, gold, or wolframite, or derivatives of such minerals, in order to ensure that the activities of such person that involve such minerals or derivatives did not directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or an adjoining country; and

“(B) make the information disclosed under subparagraph (A) available to the public on the Internet website of the person.

“(2) PERSON DESCRIBED.—

“(A) IN GENERAL.—A person is described in this paragraph if—

“(i) the person is required to file reports to the Commission under subsection (a)(2); and

“(ii) columbite-tantalite, cassiterite, gold, or wolframite is necessary to the functionality or production of a product manufactured by such person.

“(B) DERIVATIVES.—For purposes of this paragraph, if a derivative of a mineral is necessary to the functionality or production of a product manufactured by a person, such mineral shall also be considered necessary to the functionality or production of a product manufactured by the person.

“(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President determines that such revision or waiver is in the public interest.

“(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall terminate on the date that is 5 years after the date of the enactment of this subsection.

“(B) EXTENSION BY SECRETARY OF STATE.—The date described in subparagraph (A) shall be extended by 1 year for each year in which the Secretary of State certifies that armed parties to the ongoing armed conflict in the Democratic Republic of Congo or adjoining countries continue to be directly involved and benefitting from commercial activity involving columbite-tantalite, cassiterite, gold, or wolframite.

“(5) ADJOINING COUNTRY DEFINED.—In this subsection, the term ‘adjoining country’, with respect to the Democratic Republic of Congo, means a country that shares an internationally recognized border with the Democratic Republic of Congo.”

##### **SEC. 1303. REPORT.**

Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes the following:

(1) An assessment of the effectiveness of section 13(o) of the Securities Exchange Act of 1934, as added by section 1302, in promoting peace and security in the eastern Democratic Republic of Congo.

(2) A description of the problems, if any, encountered by the Securities and Exchange Commission in carrying out the provisions of such section 13(o).

(3) A description of the adverse impacts of carrying out the provisions of such section 13(o), if any, on communities in the eastern Democratic Republic of Congo.

(4) Recommendations for legislative or regulatory actions that can be taken—

(A) to improve the effectiveness of the provisions of such section 13(o) to promote peace and security in the eastern Democratic Republic of Congo;

(B) to resolve the problems described pursuant to paragraph (2), if any; and

(C) to mitigate the adverse impacts described pursuant paragraph (3), if any.

Mr. BROWNBAC. This is an issue that has been around for several years. It is on Congo conflict commodities. It is a narrow SEC reporting requirement. As I understand, both sides have cleared it. I would ask, if possible, if we can get it up for a voice vote. I certainly want to go with the timeframes of the manager and be cognizant of the Senator from Tennessee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3997) was agreed to.

Mr. DODD. Mr. President, I move to reconsider that vote and lay that motion upon the table.

The motion to lay upon the table was agreed to.

Mr. DODD. Mr. President, what is the pending business now?

The PRESIDING OFFICER. The next amendment in order is the Corker amendment.

Mr. DODD. There is 30 minutes equally divided between the proponents and opponents of that and the Carper amendment?

The PRESIDING OFFICER. That is correct.

The Senator from Tennessee.

AMENDMENT NO. 4034 TO AMENDMENT NO. 3739

Mr. CORKER. Mr. President, I hope I have the good fortune our Senator from Kansas just had. I ask unanimous consent to call up amendment No. 4034.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. CORKER] proposes an amendment numbered 4034 to amendment No. 3739.

The amendment is as follows:

(Purpose: To address the applicability of certain State authorities with respect to national banks, and for other purposes)

On page 1315, strike line 18, and all that follows through page 1325, line 20 and insert the following:

“(B) the State consumer financial law is preempted in accordance with the legal standards of the decision of the Supreme Court in *Barnett Bank v. Nelson* (517 U.S. 25 (1996)), and any preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, on a case-by-case basis, in accordance with applicable law; or

“(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

“(2) SAVINGS CLAUSE.—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

“(3) CASE-BY-CASE BASIS.—

“(A) DEFINITION.—As used in this section the term ‘case-by-case basis’ refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.